

# SENATE . . . . . No. 1712

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## The Commonwealth of Massachusetts

PRESENTED BY:

**Patricia D. Jehlen**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

**An Act further regulating debt collection.**

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Patricia D. Jehlen	Second Middlesex
Harriette L. Chandler	First Worcester
Marian Walsh	Suffolk and Norfolk
James B. Eldridge	Middlesex and Worcester
Byron Rushing	9th Suffolk
Denise Provost	27th Middlesex
Frank I. Smizik	15th Norfolk
Steven J. D'Amico	4th Bristol
John W. Scibak	2nd Hampshire
Christine E. Canavan	10th Plymouth
Matthew C. Patrick	3rd Barnstable
Barbara A. L'Italien	18th Essex
Byron Rushing	9th Suffolk
Jennifer M. Callahan	18th Worcester
Robert L. Rice, Jr.	2nd Worcester
Mark V. Falzone	9th Essex
Paul McMurtry	11th Norfolk

# The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

## AN ACT FURTHER REGULATING DEBT COLLECTION.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

**SECTION 1.** Section 34 of Chapter 235 of the General Laws, as appearing in the 2003 Official Edition, is hereby amended by striking out Paragraph First and inserting, in its place, the following:

First, The necessary wearing apparel, beds and bedding for the debtor and the debtor's family; one heating unit used for warming the dwelling house; one stove used primarily for the personal, family, or household use of the debtor or a dependent of the debtor; one refrigerator so used; one freezer so used; one hot water heater so used; and the amount each month, not exceeding five hundred dollars, reasonably necessary to pay for fuel, heat, refrigeration, water, hot water and light for the debtor and the debtor's family.

**SECTION 2.** Said Section 34 is hereby further amended by replacing, in Paragraph Second, the words "three thousand dollars" with the words "fifteen thousand dollars".

**SECTION 3.** Said Section 34 is hereby further amended by replacing, in Paragraph Third, the words "two hundred dollars" with the words "five hundred dollars".

**SECTION 4.** Said Section 34 is hereby further amended by replacing, in Paragraph Fifth, the words "five hundred dollars" with the words "five thousand dollars".

16           **SECTION 5.** Said Section 34 is hereby further amended by replacing, in Paragraph  
17 Sixth, the Words “five hundred dollars” with the words “five thousand dollars

18           **SECTION 6.** Said Section 34 is hereby further amended by replacing, in Paragraph  
19 Seventh, the words “three hundred dollars” with the words “six hundred dollars”.

20           **SECTION 7.** Said Section 34 is hereby further amended by replacing, in Paragraph  
21 Ninth, the words “five hundred dollars” with the words “one thousand five hundred dollars”.

22           **SECTION 8.** Said Section 34 is hereby further amended by replacing, in Paragraph  
23 twelfth, the words “two hundred dollars each in value” with the words “three hundred dollars  
24 each in resale value, and one computer and one television, in actual use by each debtor or by his  
25 family.”.

26           **SECTION 9.** Said Section 34 is hereby further amended by replacing, in Paragraph  
27 Fourteen, the words “two hundred dollars” with the words “two thousand five hundred dollars”.

28           **SECTION 10.** Said Section 34 is hereby further amended by replacing, in Paragraph  
29 Fifteenth, the words “one hundred and twenty-five dollars” with the words “two thousand, five  
30 hundred dollars on any day.”.

31           **SECTION 11.** Said Section 34 is hereby further amended by replacing, in Paragraph  
32 Sixteenth, the words “seven hundred dollars” with the words “seven thousand five hundred  
33 dollars of wholesale resale value; however, the equitable value of a vehicle owned or  
34 substantially used by a disabled person or a person 60 years of age or older shall be exempt up to  
35 fifteen thousand dollars in wholesale resale value.”

36           **SECTION 12.** Said Section 34 is hereby further amended by inserting the following  
37 three paragraphs after Paragraph Sixteenth, as so amended:  
38 Seventeenth, The debtor’s aggregate interest in any personal property, not to exceed in value

one thousand dollars plus up to five thousand dollars of any unused dollar amount of the aggregate exemptions provided under paragraphs Second, Fifth and Sixteenth of this Section. Eighteenth, The debtor's aggregate interest, not to exceed one thousand two hundred twenty-five dollars in value, in jewelry held primarily for the personal, family, or household use of the debtor or the spouse or a dependent of the debtor. Nineteenth, Defendants shall be provided a notice when judgment is entered generally describing the income and property exemptions provided by federal law and the laws of the Commonwealth in plain English. The defendant is entitled to assert the exemption at the time of the seizure, and the seizing officer shall not seize any exempt property. The defendant is entitled to a prompt hearing to determine whether property seized by execution is exempt and to an order to promptly return exempt property to the defendant, an award of attorney fees reasonably incurred by the defendant to obtain the order, and any actual damages caused by the seizure. Notice of the right to a prompt hearing shall be given the defendant at the time of the seizure of any property to satisfy a judgment along with a general description of the income and property exemptions provided by federal law and the laws of the Commonwealth, in plain English and in the primary language of the defendant.

**SECTION 14.** Chapter 235 of the General Laws is hereby further amended by inserting new Section 34a:

Section 34a:

(a) On April 1, 2012, and at each three-year interval ending on April 1 thereafter, the dollar amounts of exemptions provided in M.G.L. ch. 235, Section 34 in effect immediately before that date shall be adjusted as provided in subdivision (b).

(b) The Attorney General shall determine the amount of the adjustment based on the change in the annual Massachusetts Consumer Price Index for All Urban Consumers, published by the

Department of Industrial Relations, Division of Labor Statistics, for the most recent three-year period ending on December 31 preceding the adjustment, with each adjusted amount rounded to the nearest twenty-five dollars (\$25).

(c) Beginning April 1, 2007, the Attorney General shall publish a list of the current dollar amounts of exemptions provided in M.G.L. ch. 235, Section 34, together with the date of the next scheduled adjustment.

(d) Adjustments made under subdivision (a) do not apply with respect to cases commenced before the date of the adjustment, subject to any contrary rule applicable under the federal Bankruptcy Code.

**SECTION 15.** Section 28 of Chapter 246 of the General Laws, as so appearing, is hereby amended by replacing, in the first sentence thereof, the words “one hundred twenty-five dollars” with the words: thirty times the greater of the federal or the Massachusetts hourly minimum wage plus, for each dependent of the defendant, ten times the greater of the federal or the Massachusetts minimum hourly wage for each week or portion thereof”.

**SECTION 16.** Section 28A of Chapter 246 of the General Laws, as so appearing, is hereby amended by replacing the words “five hundred dollars” with the words “one thousand two hundred dollars” each time they appear.

**SECTION 17:** Chapter 224 section 16 of the General Laws, as appearing, is hereby further amended by inserting after the sentence in line 4 the following, “In the case of a handicapped debtor or a debtor sixty years of age or older where the court finds that the debtor has no property or income not exempt from being taken on execution, the proceedings shall be dismissed without prejudice.”

**SECTION 18:** Chapter 224 section 16 of the General Laws, as appearing, is hereby

85 further amended by inserting in line 35 at the end the word "chapter" the following, "and in the  
86 case of a handicapped debtor or a debtor sixty years of age or older where an order was issued  
87 under the provisions of this chapter and the debtor is later determined to have only non-exempt  
88 property or income, the court shall suspend the order and dismiss the proceedings without  
89 prejudice.

90 **SECTION 19:** Chapter 224 section 16 of the General Laws, as appearing is hereby  
91 further amended by adding at the end of the last paragraph the following, "For the purpose of this  
92 section, the words "handicapped person" shall mean a person who has:

- 93 a) a physical or mental impairment which substantially limits one or more major life activities; or  
94 b) is regarded as having such impairment by receiving a state or federal disability benefit.